

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Joint Application of SBC Communications Inc. ("SBC") and AT&T Corp. ("AT&T") for Authorization to Transfer Control of AT&T Communications of California (U-5002), TCG Los Angeles, Inc. (U-5462), TCG San Diego (U-5389), and TCG San Francisco (U-5454) to SBC, Which Will Occur Indirectly as a Result of AT&T's Merger With a Wholly-Owned Subsidiary of SBC, Tau Merger Sub Corporation.

Application 05-02-027
(Filed February 28, 2005)

**ADMINISTRATIVE LAW JUDGE'S RULING
ON PROCEDURAL MOTIONS**

This ruling disposes of the procedural motions as set forth below.

Motions to File Briefs Containing Confidential Materials Under Seal

Parties filed opening briefs in this proceeding on September 9, 2005. Certain parties' briefs as identified below contained confidential materials, those parties filed motions to file the confidential version of their opening briefs under seal. No party objects. Accordingly, those motions are granted, as identified in the ruling below.

Motion to Take Official Notice of Documents

The Utility Reform Network (TURN) requests official notice of certain documents attached to its motion filed September 9, 2005, arguing that they are relevant to the Commission's consideration of the SBC/AT&T merger under Section 854(c) of the California Public Utilities Code. The documents in question

are public data responses that SBC California recently provided in a parallel Commission proceeding. TURN argues that the documents relate directly to claims that Applicants have made in the instant proceeding concerning SBC California's line losses to competition in connection with Applicants' claims concerning the effects of the proposed merger on competition. As TURN points out, under Section 452 of the Evidence Code and California case law, the Commission may take official notice of matters in its own files and records. The data requests for which TURN seeks official notice are the responses of SBC California in Rulemaking (R.) 05-04-005. These data responses are part of Exhibit 1 to the September 2, 2005 Reply Comments of the Office Of Ratepayer Advocates (ORA) filed in that docket.

Therefore, pursuant to Rule 73, official notice is hereby taken of the documents from R.05-04-005, as identified in TURN's motion.

Motion to Shorten Time for Responses to Qwest Motion to Strike

Qwest Communications Corporation (Qwest) filed a motion to strike portions of Applicants' Opening Brief, and concurrently filed a motion to shorten time for responses to its motion to strike. The material subject to the motion to strike appears on pages 59 and 60 of Joint Applicants' Opening Brief. Qwest asserts that this portion of the brief directly contravenes the Administrative Law Judge's (ALJ) ruling of August 16, 2005, limiting the evidentiary use of the referenced confidential exhibit. ORA filed a pleading in support of the Qwest motion.

In an email message sent on September 13, 2005, Applicants express opposition to the Qwest motion to shorten time to respond to the motion to strike. Applicants seek the full time normally allotted to respond to Qwest's

motion, noting that they have less than a week to respond to nearly a thousand pages of opening briefing filed by the Protestants. Under Rule 45(f), responses to motions are normally due within 15 days after a motion is filed. Applicants argue that Qwest is not prejudiced thereby because, if it chooses, it may respond fully to the issues in briefing by explaining how the information does not undercut its position. Applicants argue that their burden outweighs the prospect of Qwest having to address two pages of briefing about Qwest's own business plans.

Applicants argue that shortening time will take additional time away from Applicants' preparation of a reply brief. Yet, by delaying a ruling on the motion to strike until after reply briefs are filed, the burden is shifted to Qwest to divert its preparation of a reply brief to address substantively what it considers to be the improper use of an evidentiary exhibit in violation of an ALJ ruling. It is not clear that Applicants' burden outweighs that of Qwest. Applicants merely need to defend procedurally why their use of the exhibit in their brief is within the scope of the previous ALJ ruling. If the motion to strike is not resolved by the due date for reply briefs, however, Qwest would be burdened with the need to provide a substantive defense of the use of the disputed evidentiary materials even if a ruling granting the motion to strike is ultimately granted.

Shortening the time for responses is also consistent with the theme repeatedly embraced by Applicants that the schedule for this proceeding needs to move expeditiously. The Proposed Decision in this matter is likewise due to be mailed under an expedited schedule. In view of the relative burdens involved, it is ruled that the motion to shorten time is hereby granted.

IT IS RULED that:

1. The motions to file under seal the confidential unredacted versions of the Opening Briefs of Applicants, ORA, TURN, Qwest, and CTFC in this proceeding are hereby granted.
2. The motion of TURN is hereby granted to take official notice of the data responses of SBC California in R.05-04-005, as referenced in its motion of September 9, 2005.
3. The motion of Qwest to shorten time for responses to its motion to strike is hereby granted. Responses shall be served by email by noon on Thursday September 16, 2005. Parties, however, shall have until close of business on Thursday afternoon of September 16 to file their response with the Commission's Docket Office.

Dated September 14, 2005, at San Francisco, California.

/s/ THOMAS R. PULSIFER

Thomas R. Pulsifer
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day the true copy of the original attached Administrative Law Judge's Ruling Admitting on Procedural Motions on all parties of record in this proceeding or their attorneys of record.

Dated September 14, 2005, at San Francisco, California.

/s/ JANET V. ALVIAR

Janet V. Alviar

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.